

Chief Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
HUAWEI DEVICE CO., LTD., and  
HUAWEI DEVICE USA, INC.,  
  
Defendants.

NO. CR19-010RSM

STIPULATED MOTION FOR  
TRIAL CONTINUANCE

**NOTE ON MOTION CALENDAR:**  
March 17, 2020

**I. Introduction.**

IT IS HEREBY REQUESTED by and between the United States of America, by Assistant United States Attorneys Todd Greenberg, Thomas M. Woods, and Siddharth Velamoor, and the defendants, HUAWEI DEVICE CO., LTD., and HUAWEI DEVICE USA, INC., by and through their undersigned attorneys, that the trial date in the above-captioned matter be continued until October 18, 2021, and that the Court enter the proposed Second Amended Case Scheduling Order.

**II. The Reasons Supporting the Requested Trial Continuance.**

The indictment in this matter was returned by the grand jury on January 16, 2019, and was unsealed by the Court on January 28, 2019. The Court presided over the arraignments of the defendants on February 28, 2019. At that time, at the request of the parties, the Court set a trial date of March 2, 2020, and on March 28, 2019, the Court

1 entered the Case Scheduling Order in this matter. Subsequently, at the joint request of  
2 the parties, the Court reset the trial date to October 19, 2020, and entered an Amended  
3 Case Scheduling Order. Since that time, the parties have been working diligently on this  
4 matter and have complied with the various deadlines in the Amended Case Scheduling  
5 Order.

6 Due to recent events, the parties are now requesting that the Court grant this joint  
7 request for another continuance of the trial date. First, on February 13, 2020, the United  
8 States Attorney's Office for the Eastern District of New York returned a superseding  
9 indictment in the case of *United States of America v. Huawei Technologies Co., Ltd., et*  
10 *al.*, CR18-457. That indictment contains new allegations brought against the same  
11 Huawei corporate defendants that are charged in the indictment filed in the Western  
12 District of Washington. Moreover, some of these new allegations are directly related to  
13 the charges contained in the indictment filed in the Western District of Washington. As a  
14 result, the defendants and their counsel require additional time to investigate the factual  
15 and legal issues presented by the recent return of the superseding indictment in the  
16 Eastern District of New York.

17 Second, as this Court has recognized in its General Order No. 01-20 (March 6,  
18 2020), the outbreak of the Coronavirus Disease 2019 (COVID-19) has had a significant  
19 impact in the Western District of Washington and elsewhere throughout the United States  
20 and worldwide, in particular China. This has had, and will continue to have, a substantial  
21 adverse effect on the ability of counsel to prepare for the trial and pretrial litigation in this  
22 case. Most notably, the virus has made it increasingly difficult for defense counsel to  
23 communicate and coordinate with their clients, many of whom are located in various  
24 cities in China. Additionally, the virus outbreak makes it impossible for the parties to  
25 schedule trial preservation depositions, pursuant to Federal Rule of Criminal Procedure  
26 15, of numerous witnesses who are currently living in China.

1       The parties submit that, given the enormous volume of discovery materials and the  
2 complexity of the charges contained in the Indictment, as this Court has previously  
3 recognized, and due to the events discussed above, it would be unreasonable to expect  
4 adequate preparation for pre-trial proceedings and for the trial itself without a  
5 continuance of the trial and pre-trial motions dates. *See* 18 U.S.C. § 3161(h)(7)(B)(ii).

6       For all of the above reasons, in view of the complexity and nature of this  
7 prosecution, and the parties' need for additional time to complete pre-trial litigation, this  
8 Court may find, pursuant to Title 18, United States Code, Section 3161(h)(7)(A) and (B),  
9 that the ends of justice served by continuing the trial in this case outweigh the interest of  
10 the public and of the defendants in a more speedy trial, and thus that a continuance is  
11 appropriate for the reasons stated above.

12       The undersigned counsel have consulted with the defendant organizations  
13 regarding the necessity for a continuance of the trial date, and the defendants  
14 acknowledge and agree to the requested continuance for the above stated reasons.

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1 **III. Conclusion.**

2 WHEREFORE, for the reasons set forth herein, the parties to this motion request  
3 that the trial date in the above-captioned matter be continued until October 18, 2021, and  
4 that the Court enter the proposed Second Amended Case Scheduling Order.

5 DATED this 17th day of March, 2020.

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7 Respectfully submitted,

8 TESSA M. GORMAN  
9 First Assistant United States Attorney  
10 (Acting Under Authority Conferred by  
28 U.S.C. § 515)

11 s/ Todd Greenberg  
12 TODD GREENBERG  
13 THOMAS M. WOODS  
14 SIDDHARTH VELAMoor  
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19  
20  
21 s/ Robert Westinghouse (per approval)  
22 ROBERT WESTINGHOUSE  
23 JAMES HIBEY  
24 BRIAN M. HEBERLIG  
Counsel for the Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record for the defendants.

s/ Courtney Goertzen

COURTNEY GOERTZEN

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Chief Judge Ricardo S. Martinez

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**ORDER CONTINUING TRIAL**

The Court has considered the entirety of the record in this case, including the parties' Stipulated Motion for Trial Continuance.

THE COURT FINDS, for all of the reasons set forth by the parties, that the failure to grant a continuance would deny the parties reasonable time necessary to complete all pre-trial litigation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).

THE COURT FURTHER FINDS, considering the volume of discovery, the complexity of this case due to the nature of the prosecution and the charges contained in the Indictment, and the recent events that are cited to in the parties' motion, that it would be unreasonable to expect the parties to complete all pre-trial litigation without a continuance of the trial and pretrial motions dates. *See id.* § 3161(h)(7)(B)(ii).

1 THE COURT FURTHER FINDS, pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B),  
2 that the ends of justice served by continuing the trial in this case outweigh the interest of  
3 the public and of the Defendants in a more speedy trial.

4 IT IS THEREFORE ORDERED that the trial in this case shall be continued until  
5 October 18, 2021, and that the period of time from the date of this Order, up to and  
6 including the new trial date, shall be excludable time under 18 U.S.C. § 3161(h)(7)(A).

7  
8 DATED this \_\_\_\_\_ day of March, 2020.

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12 RICARDO S. MARTINEZ  
13 Chief United States District Judge

14 Presented by:

15 s/ Todd Greenberg  
16 TODD GREENBERG  
17 THOMAS M. WOODS  
18 SIDDHARTH VELAMoor  
19 Assistant United States Attorneys

20 s/ Robert Westinghouse (per approval)  
21 ROBERT WESTINGHOUSE  
22 JAMES HIBEY  
23 BRIAN M. HEBERLIG  
24 Counsel for the Defendants  
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SECOND AMENDED  
CASE SCHEDULING ORDER

The Court hereby ORDERS the parties to abide by the following case schedule:

EVENT	DATE ORDERED
Oral argument on pending motions (Dkts. 53, 54, 55, 57)	April 20, 2021
Deadline to file motions for depositions under Rule 15	May 21, 2021
Government's notice of intent to admit evidence pursuant to Fed. R. Evid. 404(b)	June 11, 2021
Parties to file motions re: Rule 404(b) and initial motions <i>in limine</i>	July 19, 2021
Government's production of Jencks Act and Rule 26.2 statements and <i>Giglio</i> impeachment materials	July 26, 2021
Defendants' production of Rule 26.2 statements	August 9, 2021



1	Government's filing of witness list and exhibit lists (case-in-chief)	August 20, 2021
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3	Defendants' filing of witness list and exhibit lists	September 3, 2021
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5	Deadline for completion of Rule 15 depositions (if any)	September 17, 2021
6	Deadline to file remaining motions <i>in limine</i>	September 20, 2021
7	Proposed jury instructions, voir dire, and verdict form	October 4, 2021
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9	Trial	October 18, 2021

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11 IT IS SO ORDERED.

12 DATED this \_\_\_\_\_ day of March, 2020.

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15 RICARDO S. MARTINEZ  
16 Chief United States District Judge  
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